

FamilyStatus

AllCustodians

Email From

Email To

Email CC

Email BCC

DateSent

TimeSent

DateLastModified 7/3/2023

TimeLastModified 08:23:17

DateCreated 6/12/2023

Email Subject

Title

Filename 2023.06 Pricing Analysis.key

PLAINTIFF

U.S. District Court - NDCAL

4:20-cv-05640-YGR-TSH

Epic Games, Inc. v Apple Inc.

Ex. No. **CX-0274**

Date Entered _____

By _____



Pricing options

June 2023
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U.S. District Court - NDCAL
4:20-cv-05640-YGR-TSH
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Three options for link-out pricing



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Option A: Standard Commission Discount

Apple would discount the commission on link-outs based on cost of payments

Proposed Justification

- Developer will still benefit from all of Apple's tools, technologies, and services, and only have to cover payments themselves at the end
- Our 30% commission is fair and defensible:
 - Steam charges 20-30%, but does not offer platform services
 - Codashop charges 15% but only offers IAP merchandising and payments without platform or distribution capabilities
 - EGS commission is below cost at 12%, without platform or review services
- The App Store is a premium, comprehensive, at-scale offering

Considerations

- Simplest approach that is most consistent with our in-market approaches in Netherlands and Korea
- No "tipping of our hand" with respect to DMA compliance and future business model changes
- ATTORNEY-CLIENT PRIVILEGE
[REDACTED]
- Developers will claim that a small discount will not provide enough margin to compete on price i.e. difficulties with Netherlands approach

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Option B: Time-limited, Discounted Commission

Apple would charge a discounted commission for 1 year and then 0% thereafter

Proposed Justification

- Developers who do the work to retain customers through direct channels after the link out will eventually keep 100% of customer billings
- Our commission for 1 year is fair and defensible:
 - Developers are still benefitting from the vast majority of Apple's tools, technologies, and services
 - The effective rate drops over time as retained users drive more billings at 0% commission
 - Structurally similar to CPI and CAC calculations used by developers to evaluate distribution partners

Considerations

- Retains many of the challenges / complications of Option A, with less financial upside
- Provides more margin opportunity for developers, **ATTORNEY-CLIENT PRIVILEGE**

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Option C: Flat Affiliate Fee

Apple would charge a flat fee per customer tap-through on an in-app link-out

Proposed Justification

- The App Store is functioning as an affiliate channel driving customer discovery that resolves to the transaction flow of the developers' choice
- Our flat fee per tap-through is fair and defensible:
 - This structure aligns with affiliate pricing schemas across the industry, including Apple's own affiliate programs for our 1P services
 - The effective rate drops even more quickly over time after the initial one-time charge
 - Flat fee allows for even more margin expansion for developers who are able to retain customers on non-Apple channels

Considerations

- No calculation risk with fees; Apple has full visibility into tap-through data
- No need for data sharing / audit rights between developers and Apple
- Pricing framework is not grounded specifically in IP or proprietary technology
- Significant divergence from other planned changes that increase risk of inconsistencies or regulatory cherry-picking
- Significant pricing risk and complexity (i.e. single fee for all apps, apps vs games, or unique to each app)

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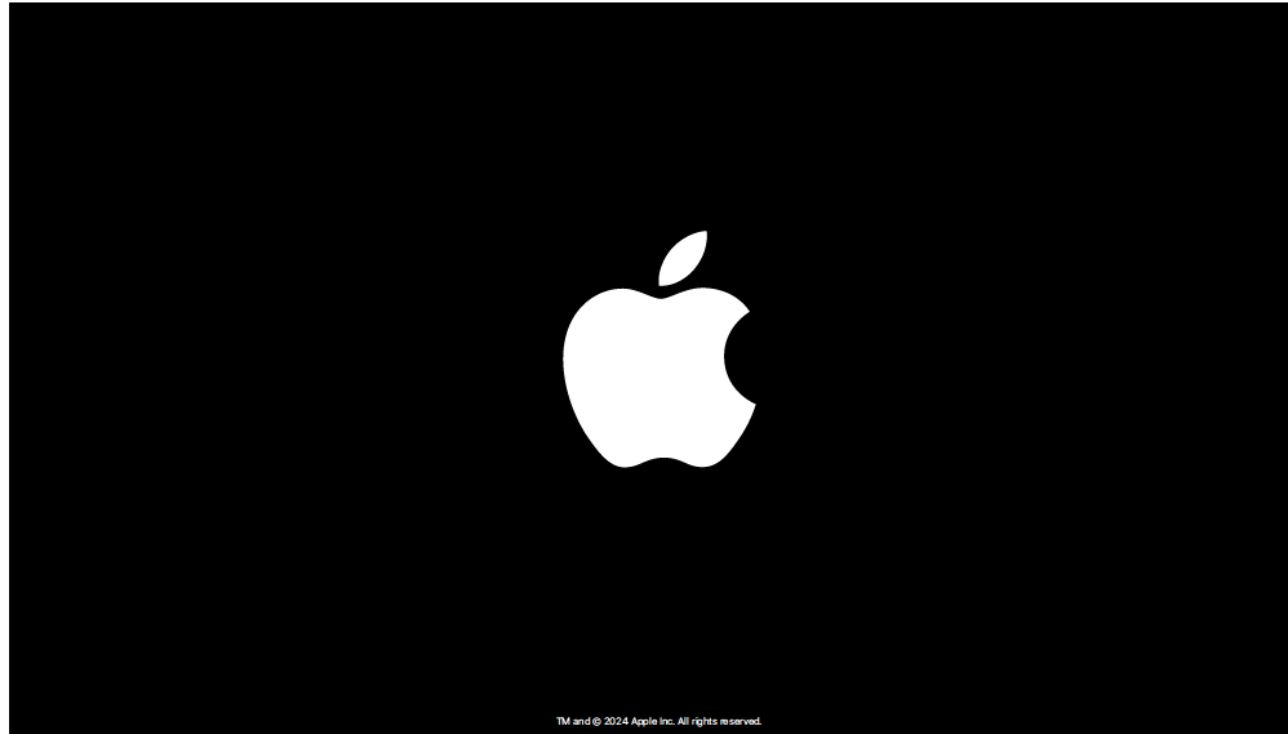
Option A: Reduced Commission

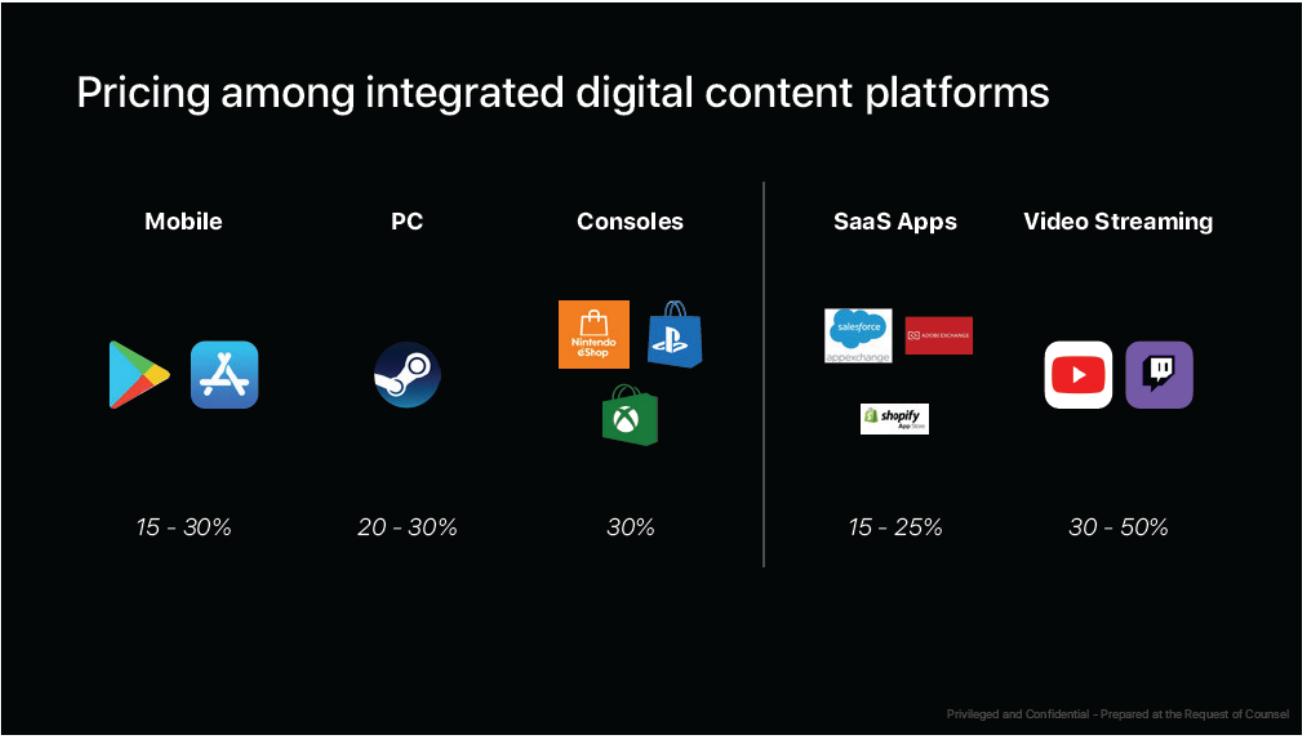
Financial impact sensitivity?

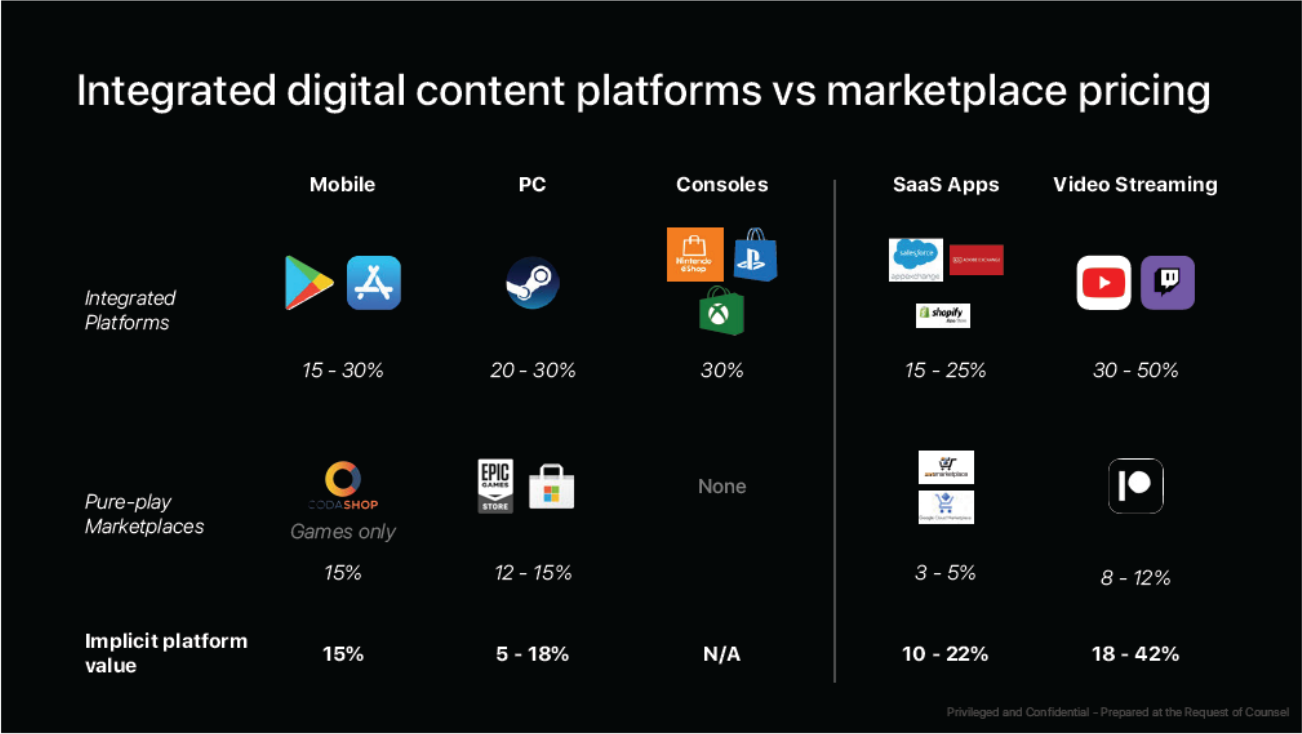
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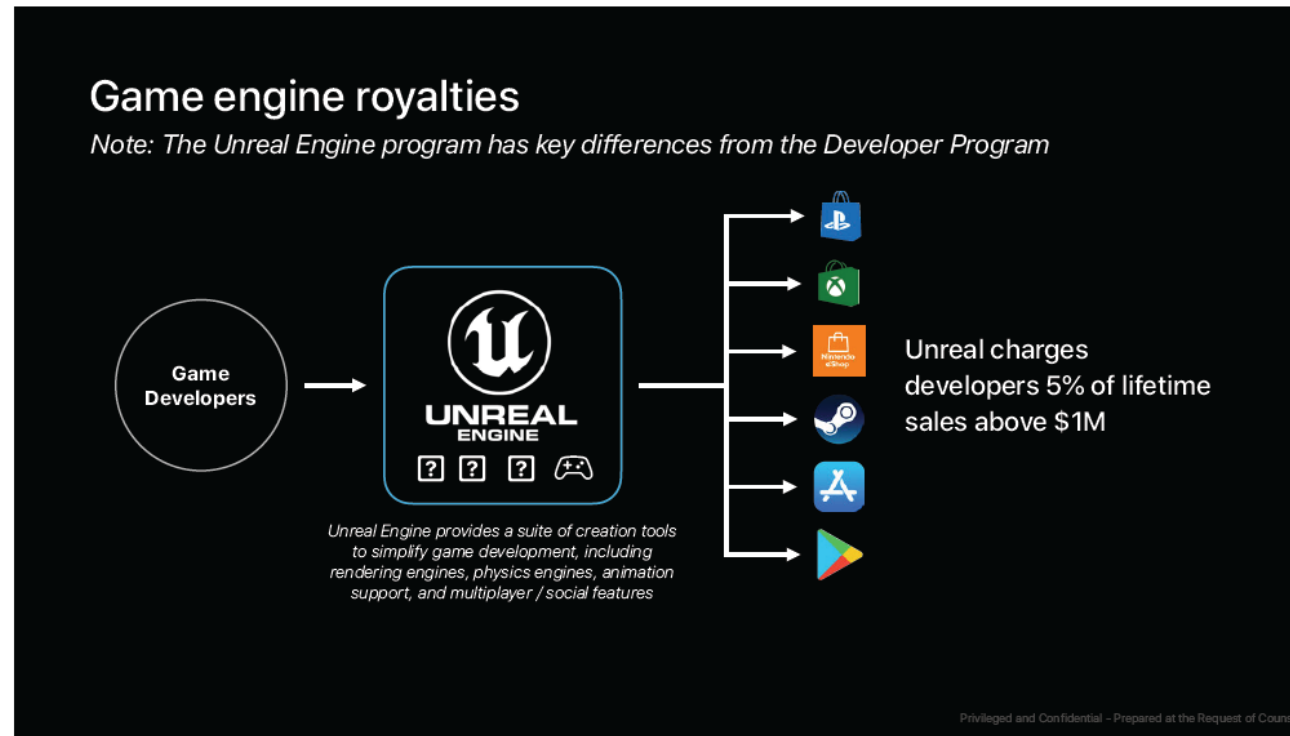
Option B: Referral Fee

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Unity not a good comp bc pricing structure is hard to align

For Discussion Only

Apple Licenses

Technology licenses are more apt comps than patent licenses

- Technology licenses provide access to technology, services, deliverables, tools, knowhow, etc., often for a “per unit” (e.g., HW or SW unit) fee
 - E.g., ARM ISA, Microsoft ActiveSync, MFi
- “Pure” patent licenses are a bare promise not to sue and typically structured as lump sum or capped fees

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Per-unit pricing in software / technology

Cloud computing		Map services		Marketing / advertising	
	Pricing		Pricing		Pricing
AWS	per unit compute (variable)	Google Maps	per API call (variable)	Adobe / Marketo	Subscription
GCP		Mapbox	per user (variable)	Hubspot	per user (variable)
Azure				Twilio Segment	
Heroku	per unit compute (standardized)			Facebook	per impression (auction)
GoDaddy	per website (subscription)			Google	
Wix					

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Per-unit pricing in other industries

	Examples	Relevant Fees	Pricing
Payments	Visa Mastercard American Express	Interchange plus fees	per attempt (variable)
Electric Utilities	PG&E San Diego Gas & Electric Southern California Edison	Transmission and distribution fees	per kwh (fixed / regulated)
MVNOs	T-Mobile	Wholesale network access fees	per minute Per GB (negotiated)
Legacy Telecom	AT&T	Interconnect fees	Per call (regulated)
Retail	Krogers Safeway	Slotting fees	per SKU-time-space (negotiated)

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